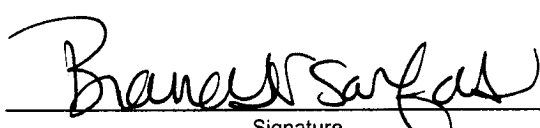


<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional)  26530.92 (IDR-671)						
<p>I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office via EFS-Web on</p> <p style="text-align: center;"><u>January 21, 2009</u></p> <p>Signature <u>Ellen Lovelace</u></p> <p>Typed or printed name <u>Ellen Lovelace</u></p>	<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="width: 50%; padding: 5px;">Application Number  10/734,935</td><td style="width: 50%; padding: 5px;">Filed  December 12, 2003</td></tr><tr><td colspan="2" style="padding: 5px;">First Named Inventor  Simpson et al.</td></tr><tr><td style="padding: 5px;">Art Unit  2132</td><td style="padding: 5px;">Examiner  Samson, Lemma B.</td></tr></table>		Application Number  10/734,935	Filed  December 12, 2003	First Named Inventor  Simpson et al.		Art Unit  2132	Examiner  Samson, Lemma B.
Application Number  10/734,935	Filed  December 12, 2003							
First Named Inventor  Simpson et al.								
Art Unit  2132	Examiner  Samson, Lemma B.							
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 20px;"><div style="width: 45%;"><p>I am the</p><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p><p><input checked="" type="checkbox"/> attorney or agent of record.      37,713 Registration number _____</p><p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p></div><div style="width: 50%; text-align: center;"><div style="font-size: 1.5em; margin-bottom: 5px;"></div><p>Signature</p><p>Brandi W. Sarfatis</p><p>Typed or printed name</p><p>214-651-5896</p><p>Telephone number</p><p>1/21/09</p><p>Date</p></div></div> <p style="margin-top: 20px;">NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>								
<p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>								

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**Response Under 37 CFR § 1.116**

**Expedited Procedure – Group Art Unit 2132**

Serial Number: 10/734,935

Reasons in Support of Pre-Appeal Brief Request for Review

Attorney Docket No.: 26530.92 / IDR-671

Customer No. 000027683

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:	§	
Simpson et al.	§	Attorney Docket No. 26530.92
	§	
Serial No.: 10/734,935	§	Customer No. 27683
	§	
Filed: December 12, 2003	§	Group Art Unit: 2132
	§	
For: DISTRIBUTED DYNAMIC	§	Examiner: Samson, Lemma B.
SECURITY CAPABILITIES WITH	§	
ACCESS CONTROLS	§	Confirmation No: 2224

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P.O. Box 1450

Alexandria, VA 22313-1450

**REASONS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Sir:

**I. INTRODUCTION**

The present paper is being filed under the Official Gazette Notice of July 12, 2005, and in response to the final Office action mailed October 30, 2008, and the Advisory Action mailed December 24, 2008, in connection with the above-noted application. A Notice of Appeal with the proper fee is being filed concurrently with this paper. It is assumed that no additional fees are required, but if any additional fees are required, the Commissioner is hereby authorized to charge any fees, including those for any extensions of time, to Haynes and Boone, LLP's Deposit Account No. 08-1394.

**II. REASONS**

In the final Office action mailed October 30, 2008, claims 1 and 4-21 were rejected under 35 U.S.C. §103(a) over U.S. Patent No. 5,787,175 ("Carter") in view of U.S. Patent Publication 2006/0173999 ("Rider").

MPEP §2143.03 states that "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)." However, in the present matter, the Examiner has not shown that all words in the claims have been considered. In particular, claim 1 requires, *inter alia*, "building a member definition comprising . . . an access control list and a digital signature." The Examiner has cited Carter as teaching these elements.

Specifically, with regard to the "access control list," the Examiner cites column 12, lines 56-57, column 13, lines 52-62, and Fig. 5, reference numeral 100, of Carter as teaching an "encrypted key document" signed by the public key of the member, which the Examiner has deemed the equivalent of Applicants' access control list. The Examiner goes on to state that:

*Only the member with the corresponding private key can access the document. In particular see the following which is disclosed on column 13, lines [sic] 64-column 13, lines [sic] 5, 'The encrypted document key 100 is formed by encrypting the document key obtained during the step 110 with the public key of the member in question, which was obtained during step 116. Note that the underlying document key is the same for each member of the collaborative group, but the encrypted form 100 of the document key is unique to each member. Those of skill in the art will appreciate. [sic] that the encrypted document key 100 can be decrypted only by using the private key 80 that corresponds to the public key 78 used to encrypt the document-key.*

The Examiner further refers to the "collaborative access controller 44 "which is described on column 6, lines 11-22 as the access controller which restrict [sic] access to the members only. Non members are restricted from [sic] accessing the information." However, this function is not performed through use of an access control list. Clearly, therefore, the portion of Carter cited by the Examiner does not disclose or teach an access control list, as that phrase is commonly understood and used consistently throughout Applicants' specification and claims. For example, as described in paragraphs [0023]-[0025]:

**[0010]** *Access control list[s] 20 are the applicable access rights for this particular member. An "access control list" can be used as a basis for permitting access to a document. Different computer systems configure access control lists differently, but in general system users are assigned to one or more groups by a system administrator and a list which matches groups with access rights is associated with documents in the computer system. Access rights can be any form of access right for a particular computer system, including read, write, read/write, execute, and delete. Other access rights are also readily known in the art and could be used.*

**[0011]** *The ACL portion of the member definitions is evaluated by an access mechanism. An access mechanism can be an agent, service, file system extension (e.g., a POSIX extension), or a file system access.*

**[0012]** *When an access mechanism processes an access request, only that portion of the document that is accessible via the ACL of the member definition will be affected.*

Clearly, the cited portions of Carter cannot be construed as describing an access control list within the meaning of claim 1.

Additionally, with regard to the "digital signature," the Examiner cites column Fig. 5, reference numeral 102, and column 14, lines 15-21, of Carter as teaching an "encrypted message digest," which the Examiner equates to Applicants "digital signature." The cited portion states that:

*the encrypted message digest 102 is formed by generating a message digest based on the current contents of the data portion 94 of the document 90 and then encrypting that message digest with the private key 80 of the member who is signing the document 90.'*

The Examiner further cites to the abstract and column 6, lines 11-12, which discloses:

*collaborative signatures, such that members of the group can digitally sign a particular version of the data portion. These collaborative signatures can then be used to advantage in ways similar to conventional individual digital signatures. For instance, the collaborative signatures can be used to identify the signing member.*

In response, Applicants submit that neither the "encrypted message digest" nor the "collaborative signatures" discussed in the cited portions of Carter are equivalent to Applicants' "digital signature." In particular, as described in paragraph [0053] of Applicants' specification:

*if the member definition contains a digital signature, that digital signature could be verified in order to determine if the member definition is properly a part of the requested document (e.g. the digital signature is that of the owner or administrator of the document), or if the digital signature matches the user identifier of the user accessing the document.*

Clearly, the "encrypted message digest," although forming a part of Carter's member definition, does not perform the functions of the digital signature as described above. Moreover, the "collaborative signatures" do not form a part of the member definition and therefore also are not equivalent to the digital signature.

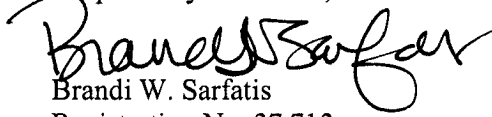
The above-noted deficiencies of Carter are not remedied by Rider, which is cited as teaching linking the member definition to a first data portion of a document; receiving a request from the user to access the document; comparing the request with the access right; and allowing access to only the first data portion.

In view of the foregoing, the rejection of independent claim 1 is clearly not supported by the cited combination and should be withdrawn. Independent claims 11 and 21 include elements similar to those of claim 1 and are therefore also deemed to be in condition for allowance for at least the same reasons presented above. Claims 4-10 and 12-20 depend from and further limit claims 1 and 11 and therefore are deemed to be in condition for allowance for at least that reason.

### III. CONCLUSION

In view of the fact that there is at least one clear error in the Examiner's position, as demonstrated above, it is apparent that the rejection of the pending claims under 35 U.S.C. §103 is not supported by the reference and should therefore be withdrawn. Accordingly, all of the pending the claims in the application being in condition for allowance, such action is respectfully requested.

Respectfully submitted,

  
Brandi W. Sarfatis  
Registration No. 37,713

Dated: 1/21/09

HAYNES AND BOONE, LLP

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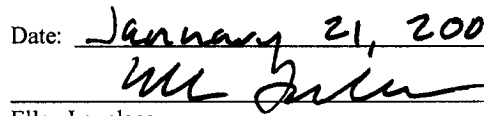
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File: 26530.92

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via EFS-Web on the following date.

Date: January 21, 2009

  
Ellen Lovelace